

FINAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 63-102(e)(2)(C), (D), (E), and (G)

Specific Purpose:

These sections are being amended to change the word "coupons" to "benefits."

Factual Basis:

These amendments are necessary to implement 7 CFR 274.12 which requires implementation of an EBT issuance system for food stamp benefits as an alternative to issuing food stamp coupons.

Section 63-102(e)(2)(H)

Specific Purpose:

This section is being adopted to add meals purchased by eligible elderly, or homeless or disabled food stamp households under the provision of a CDSS-approved restaurant meals program to the definition of eligible food and to specify that counties shall only contract with individual restaurants that are authorized by FNS to participate in this program and serve meals at low or reduced prices.

Factual Basis:

This section is necessary to implement 7 CFR 271.2, 7 CFR 274.10(a)(4)(ii) and (iii), and 7 CFR 278.1(i).

Final Modification

This section is being restructured. The requirement that counties only contract with individual restaurants that are authorized by FNS to participate in the program is being moved to new Section 63-102(e)(2)(H)2. and language is added to clarify how FNS approval is to be obtained. The requirements that restaurants must serve meals at low or reduced prices and that counties only contract with individual restaurants that provide this program and serve meals at low or reduced prices are being moved to new Section 63-102(e)(2)(H)1. and amended to replace "low or reduced prices" with language that defines what is meant by "low or reduced prices" for clarity.

New Section 63-102(e)(2)(H)3. is added to specify that prior to instituting a restaurant meals program, the county is required to submit a written proposal to CDSS for review and approval and what the proposal must contain. This section is necessary to clarify the steps necessary to obtain CDSS approval.

New Section 63-102(e)(2)(H)3.a. is added to specify that the written proposal must include a draft identification card. This section is necessary to clarify what identification information must be provided to and carried by the eligible participants who must use the card along with the State EBT card. That information includes the participant's name and signature, case number and expiration date.

New Section 63-102(e)(2)(H)3.b. is added to specify that the written proposal must include a draft public sheet to notify restaurants of the restaurant meals program requirements. This section is necessary to advertise the availability of the program to the restaurant community and to clarify standards required of participating restaurants that may choose to participate in this program.

New Section 63-102(e)(2)(H)3.c. is added to specify that the written proposal must include a draft publicity sheet with requirement and availability information for current homeless, elderly, and disabled recipients. This section is necessary to advertise to potentially eligible participants the availability of the program and to clarify for them the requirements for participation.

New Sections 63-102(e)(2)(H)3.d. and e. are added to specify that the written proposal must include a draft Memorandum of Understanding (MOU). Section 63-102(e)(2)(H)3.d. is necessary to clarify the county's responsibility to issue an individual identification card to each eligible participant and to inform each participant of the names and addresses of participating restaurants. The MOU must contain a format for signatures of persons authorized on behalf of the county and the restaurant to enter into a contractual relationship for this program. Section 63-102(e)(2)(H)3.e. is necessary to clarify that the restaurant is prohibited from including a service gratuity in the meal price, prohibited from charging sales or meals tax, prohibited from selling alcoholic beverages to program participants, and that the restaurant is required to publicly post notification of the restaurant's participation in the program with references to non-discrimination statutes and regulations. These requirements and prohibitions define the contractual responsibilities of the county and the restaurant.

New Section 63-102(e)(2)(H)4. is added to inform the counties of the proposal process. This section is necessary to clarify CDSS' obligation to receive and review any materials submitted by a county and to respond to the county with approval or denial of the proposal, including suggested corrections for necessary modification.

Handbook Section 63-102(e)(2)(H)1. (Renumbered to Handbook Section 63-102(e)(2)(H)5.)

Specific Purpose/Factual Basis:

This handbook section provides counties with the necessary procedures if they opt to participate in the restaurant meals program. These procedures include submitting to CDSS a proposal on outreach to restaurants and a draft MOU to be used with recruited restaurants. Approval of proposals is always subject to availability of state and federal funds.

Final Modification

This handbook section is amended to clarify that approval of program participation is dependent upon availability of State funds. Reference to federal funds is being deleted because we have no authority over federal funding. This amendment is necessary to clarify that this program is a county option but participation will only be approved if State funds are available. The second sentence is being deleted from handbook, amended, and adopted as regulations at Sections 63-102(e)(2)(H)3.d. and e. This revision is necessary to clarify in more detail what information must be included in the county proposal.

Section 63-504.72

Specific Purpose:

This section is being amended to specify that households eligible to participate in the restaurant meals program are to receive some form of ID on which their eligibility is clearly identified.

Factual Basis:

This amendment is necessary to implement 7 CFR 274.10(a)(4).

Handbook Sections 63-504.723(a) and (b)

Specific Purpose/Factual Basis:

These handbook sections are added to ensure that counties using EBT are aware that usage of stickers on EBT cards could potentially cause system problems and that usage of a separate ID card is allowed.

b) Identification of Documents Upon Which Department Is Relying

7 CFR 271.2

7 CFR 274.10

7 CFR 274.12

7 CFR 278.1

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would lessen any adverse impact on small business.

e) Significant Adverse Economic Impact On Business

CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Testimony and Response

These regulations were considered as Item #1 at the public hearing held on July 16, 2003 in Sacramento, California. No oral testimony was received at the public hearing. The following written testimony was received from Jody Kent of the L.A. Coalition to End Hunger & Homelessness during the 45-day comment period from May 30, 2003 to 5:00 p.m. July 16, 2003.

General

Comment:

“We think that at least 5 of the restaurants that serve as pilots for this program in LA should be given (free of charge) the appropriate equipment to use the EBT card. We understand that this equipment is generally provided free of charge for those stores that receive \$100 worth of food stamps/month, but these restaurants have yet to be given the opportunity to accept food stamps, therefore this rule does not apply to them. We suggest that an exception be made to accommodate the restaurants serving as pilots for the Restaurant Meals Program for Homeless.”

Response:

This comment is outside the scope of the proposed regulations. CDSS recommends that the commenter (through Los Angeles County) submit a detailed proposal outlining the specifics and justification for the proposal. At that time, dependent on available funding, the Department will conduct an analysis of the proposal and respond accordingly.

g) 15-Day Renotice Statement

After receipt of a Decision of Disapproval of Regulatory Action from the Office of Administrative Law, received November 19, 2003, revisions were made to the regulatory text to correct deficiencies cited in the Decision of Disapproval. Pursuant to Government Code Section 11346.8, a 15-day renotice and complete text of modifications made to the regulations were made available to the public from February 16, 2004 through March 9, 2004. No testimony was received and no further amendments are being made to the regulations.